

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: James R. & Brenda G. Aylor)
 District C2, Block 32L, Parcel A98)
 Residential Property)
 Tax year 2005)

Shelby County

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|------------|-------------------|-------------|------------|
| \$84,900 | \$243,400 | \$328,300 | \$82,075 |

On April 28, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on June 22, 2006 in Memphis. In attendance at the hearing were James R. Aylor, co-owner of the property in question, and Shelby County Property Assessor's representative Ronald Nesbit.

Findings of Fact and Conclusions of Law

The property in question is a single-family residence located at 10293 Peyton Path Cove, in the Halle Plantation subdivision of Collierville. Built in 1990 on a 0.41-acre site, this three-bedroom home includes a central HVAC system and an attached garage. The concrete patio was covered several years ago, but no heated floor space has been added.

According to the Assessor's records, the subject house contains 3,097 square feet of living area. Much of the discussion at the hearing concerned the accuracy of that figure. While Mr. Aylor did not dispute the Assessor's calculation of the ground floor area (2,292 square feet), he insisted that the upper level only encompassed 695 square feet.¹

Mr. Nesbit's analysis of five sales of similar homes in the neighborhood indicated a value range of approximately \$104-\$110 per square foot (including the lot) for the property under appeal. To Mr. Aylor, however, it seemed that the Assessor's office had "picked the highest sale price per sq. ft. they could find and even then it was less than what they said my house was

¹It should be noted that the conflicting estimates differed by less than 4%. This relatively minor discrepancy may be at least partially attributable to the Assessor's customary use of an exterior measurement.

worth.”² He wondered why the Assessor had not selected as comparables other houses on the same streets that purportedly sold for lesser amounts per square foot. Among those houses was the one next door at 10295 Peyton Path Cove, which brought \$290,000 in April, 2004. Mr. Aylor introduced an affidavit by a previous owner of that home to the effect that it had “approximately 3,000 square feet of living space” – not the 2,663 shown in the Assessor’s records.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Respectfully, even assuming (without deciding) that the total living area of Mr. Aylor’s house as well as the adjoining 10295 Peyton Path Cove is closer to 3,000 square feet, the administrative judge cannot accede to the appellant’s requested \$98-per-square-foot value.³

The fact that a residential property has been valued above the **average** appraised value or sale price per square foot of contemporaneously-built homes on the same street does not, of course, necessarily mean that such property has been overvalued. Even at \$109.91 per square foot (for 2,987 square feet), the current appraisal of the subject property would still be within – albeit near the top of – the range of values yielded by the numerous sales in the record.

Mr. Nesbit’s research revealed that some of the appellant’s suggested comparables were significantly larger than the subject house.⁴ From an appraisal standpoint, differences in size are important because “[s]ale price per square foot usually decreases as square feet increase.” International Association of Assessing Officers, Property Appraisal and Assessment Administration (1990), p. 162. Further, three of the sales cited by Mr. Aylor occurred in 2002 – over two years before the January 1, 2005 reappraisal date. Given the constant fluctuation in real estate prices, those sales cannot be accorded as much evidentiary weight as more recent arm’s-length transactions.⁵

Understandably, like many other taxpayers in a year of county-wide reappraisal, the appellant has focused on: (a) the amount or percentage of increase in the appraisal of his

²This assertion was predicated on what Mr. Aylor believed to be the “correct” measurement of his house.

³In tax year 2005, the subject property was originally valued by the Assessor at \$344,700. The county board ultimately reduced that value to \$328,300.

⁴Curiously, according to Mr. Aylor’s information, almost all of his comparables (including 10295 Peyton Path Cove) actually sold for less per square foot than reported in CHANDLERREPORTS.COM.

⁵The oldest of Mr. Nesbit’s comparable sales took place in November, 2003.

property; and (b) how the new appraisal compares with that of other properties in the vicinity. While recognizing these concerns, the State Board has historically confined its review of an assessment to the issue of whether it accurately reflects the *market value* of the property under appeal (as of the assessment date). Decisions of the State Board have repeatedly held that the amount or percentage of increase in an appraisal of property is irrelevant to a determination of such property's market value. See, e.g., E. B. Kissell, Jr. (Shelby County, Tax Years 1991 & 1992, Final Decision and Order, June 29, 1993). Likewise, this agency has generally rejected "comparative appraisal" complaints on the rationale that:

The assessor's recorded values for other properties may suffer from errors just as (the appellant) has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Stella L. Swope (Davidson County, Tax Years 1993 & 1994, Final Decision and Order, December 7, 1995), p. 2.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|------------|-------------------|-------------|------------|
| \$84,900 | \$243,400 | \$328,300 | \$82,075 |

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of July, 2006.

Pete Loesch

PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: James R. Aylor
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

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